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THE WHITE HOUSE

WASHINGTON

May 3, 1976

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR: EDWARD SCHMULTS  
THROUGH: PHIL BUCHEN  
FROM: JIM CONNOR *JEC*  
SUBJECT: Comprehensive Regulatory  
Reform Legislation

The President reviewed your memorandum of April 21 on the above subject and approved your recommendation to submit legislation along the lines outlined. The following notation was also made:

"Approve - in principle but would like meeting with principal advisors for thorough discussion."

Please follow-up with appropriate action.

cc: Dick Cheney

May 3, 1976

Ed Schmults -

Re: Comprehensive Regulatory  
Reform Legislation

In order for you to prepare for the meeting requested by the President, believe you will find the comments received during the staffing process of interest.

Jim Connor

THE PRESIDENT HAS SEEN. . .

THE WHITE HOUSE

WASHINGTON

April 24, 1976

MR PRESIDENT:

Comprehensive Regulatory Reform Legislation

Staffing of the attached memorandum prepared by Ed Schmults resulted in a variety of comments:

Comments supporting the recommendation were received from:

Jim Cavanaugh: "The Proposal is well thought out approach to systematic reform of regulation that avoids many of the jurisdictional pitfalls of similar proposals now pending in the Congress. We endorse it. I do recommend that the message be changed to address the proposal's ultimate benefits to consumers, as well as its benefit to business."

Max Friedersdorf: "The Office of Legislative Affairs recommends we submit legislation and keep it reasonable and simple to understand. Suggest we keep as close as we can to Percy-Byrd bill."

Comments expressing some doubts about the recommendation were received from:

Jack Marsh: "The foregoing is a broad and imaginative proposal which I think has considerable merit; however, I think we should be certain we have the answers to certain questions before we embark on this proposal. Precisely, I would like to know if there is some consensus in the private sector in support of this program or is it going to be a subject of strong attack and criticism by industry and various trade groups because they have not been brought aboard.

What is Bill Baroody's assessment of the proposal? I believe Bill can be an excellent resource to develop private sector support.

I note the reference to the Chamber of Commerce and the NAM, does this reflect the interest in the four broad categories on page 2? Is this a proposal for a study or does it go further by establishing reform procedures---see item 3 at Page 4."

Bill Seidman's comments concerning the recommendation are at  
TAB C.

Jim Lynn's comments concerning the recommendation are at TAB D.


Jim Connor

THE WHITE HOUSE

WASHINGTON

April 21, 1976

MEMORANDUM FOR THE PRESIDENT

FROM: EDWARD SCHMULTS   
SUBJECT: Comprehensive Regulatory Reform Legislation

Issue

On February 4, you met with members of the Domestic Council Review Group and Senior Staff regarding the current status and future directions of the regulatory reform program.

We discussed a two part implementation plan to maintain and build upon our present momentum. Part one involved the creation of a short term task force effort to improve regulatory practices in selected agencies. While we have run into some personnel problems, now largely resolved, a separate memorandum on this effort will be submitted to you shortly.

Part two of the plan was to broaden the scope of the present regulatory debate by undertaking a fundamental reexamination of the Federal regulatory system and setting forth a comprehensive calendar of reform for the next four years. This memorandum outlines in greater detail how such a program might be implemented, requests your decision on whether to submit legislation and recommends an announcement be made shortly.

Background

To date, the regulatory reform program has concentrated primarily on specific targets of opportunity designed to reduce government interference in the private sector. In searching for new targets, however, we find that we are faced with a number of difficult theoretical and practical problems. Your success in formulating strong budgetary, foreign affairs, defense and intergovernmental relations policies has depended in part upon a clear articulation of goals in each of these areas. Comprehensive

plans have helped explain your position on these complex areas to the public and have provided a framework for legislative and administrative decisions. A similar framework is needed in the regulatory reform area.

### The Proposal

We have in the OMB clearance process for agency comments legislation which establishes a comprehensive regulatory reform agenda for the next four years. It requires the President to assess the impact that Federal regulations and subsidies have on the private sector and to propose by January 31, 1978-1981 a series of legislative recommendations and administrative actions to reduce the burden of unnecessary Federal intervention. It also requires congressional consideration of these proposals within a given period of time.

In order to develop the required Presidential proposals an effort would be initiated late this year or early next year. It would be under the general direction of a Special Assistant to the President appointed specifically for this purpose and organized into four working groups established to review specific segments of the economy:

- Transportation and Agriculture (including, at a minimum, a look at such agencies as the ICC, CAB, and the Departments of Transportation and Agriculture).
- Heavy Manufacturing, Mining, and Public Utilities Industries (including such agencies as FEA, EPA, FPC and the Department of Interior).
- Light Manufacturing and Construction Industries (including such agencies as the EEOC, FDA, CPSC, and the Department of Labor).
- Banking, Insurance, Real Estate, Communications, Trade and Services Industries (including such agencies as the SEC, FTC, FCC and the Comptroller of the Currency).

Chart 1, which appears at Tab A to this memorandum, illustrates how the effort would be structured with the working groups operating simultaneously. The percentages on the chart indicate approximately how much of the total effort would be devoted to the various segments in any given year. It is estimated that approximately \$2 million per year and a full-time staff of 30 people would be required to implement this program. Chart 2 (also at Tab A) describes the specific timetable in more detail and provides examples of the issues and agencies to be addressed.

Each year, an inventory of Federal involvement would be prepared to identify the extent to which Federal regulations subsidies and other program requirements impact on a given segment of the economy. From this information, major issues would be identified and public hearings would be held to obtain additional information on specific problems and to develop greater public understanding. At the end of each year, four specific products would be submitted for Presidential review:

1. Specific legislative proposals.
2. Specific recommendations for administrative reforms in the agencies.
3. A comprehensive report on the total impact of government interventions in that segment of the economy to serve as a basis upon which to justify the specific administrative and legislative recommendations.
4. A list of issues to be handed off to other working groups for further study.

The President would review these products and submit the report and appropriate legislation to Congress. He would also issue instructions for administrative change.

Legislative recommendations each year would be referred to appropriate committees of Congress for consideration. If the committees had not reported legislation to the floor by November 15 of the same year, the Administration's legislative plan would become the pending order of business on the floor. It would remain the pending item until acted on by each House.



## Discussion

There is increasing congressional interest in undertaking a regulatory reform effort. Currently, a variety of bills are being considered ranging from zero-based budget reviews of all agencies to abolishing a number of major regulatory agencies. Action on some form of legislation to require a comprehensive analysis of existing Federal programs appears likely at least in the Senate.

Legislation similar to the proposal outlined in this memorandum has already been introduced in the House and Senate by Senators Percy and Byrd, Representatives Jordan, Anderson and others. However, this proposal differs in several important respects:

1. In addition to focusing on agencies (which is primarily the Percy-Byrd approach), our legislation would require more attention to the cumulative impact of government intervention on important sectors of the economy. This approach would help reduce the congressional inclination to simply "move the boxes", a problem recurrent in past studies of the need for government reform. The proposed legislation would address all important government programs and agencies, many of which are not itemized in the existing congressional versions.
2. The Administration bill recognizes the need for congressional cooperation without attempting to mandate a constitutionally questionable forcing mechanism as does the Percy-Byrd bill.
3. The proposed legislation gives the President the flexibility to defer legislative recommendations on important crosscutting issues until sufficient evidence is available to support them, e.g., OSHA regulations have an impact on manufacturing industries as well as transportation. Under this proposal, legislative recommendations for fundamental changes in OSHA regulations could be deferred until a number of industries had been examined.
4. Our proposed legislation would be somewhat broader in scope, encompassing non-tax subsidies as well as regulation.

5. A cumulative review of Federal programs would result in specific improvements in public policy formulation by providing a basis for more informed trade-offs between our broad economic goals, e.g. reduced inflation and unemployment, and specific regulatory objectives such as health and environment. By looking only at agencies, the Percy-Byrd bill does not provide this perspective.

The proposed legislation represents a significant improvement over the present congressional proposals and we believe it would demonstrate your continued leadership on this important issue. The concerns that have been expressed focus principally on whether a multi-year reform effort of this magnitude is a feasible undertaking. It has also been suggested that we concentrate on safety, health and environmental problems in the first year. Finally, a question has been raised as to whether or not new legislation is required to initiate such an effort.

The Domestic Council Review Group feels that a comprehensive effort is achievable, but only with sustained Presidential interest and leadership. The task is admittedly large, but we believe that it could be accomplished and if we are ever to effect the future growth of Government, it must at least be tried. We also believe it would be unwise to start with safety and health issues because our knowledge is weakest in these areas and additional time is needed to build a persuasive case for reform. Also, if the effort is perceived as simply a pro business attempt to roll back existing safety and health regulations (which is probable if we begin with these issues), its chances for success would be bleak since strong opposition would be encountered immediately.

Finally, we believe legislation is necessary in order to assure continued congressional attention and support for reform. It would also help to secure the necessary assistance from the private sector, and the Federal Government agencies because they would view the potential for action to be much greater. Finally, without a strong proposal of our own, we stand a good chance of losing the regulatory reform lead to Congress.

We are persuaded that the prospects are excellent for broad scale support of our proposal. We have talked with Senator Percy and he intends to hold hearings on his bill before the full Government Operations Committee in the middle of May. The Chamber of Commerce has drafted a bill similar to our proposal but would prefer to support an Administration bill. The National Association of Manufacturers is also interested in getting behind such a comprehensive effort. In developing this legislation we have met with a number of people such as Don Rice of RAND, Roy Ash, Bill Ruckelshaus, Irving Shapiro of Dupont, Lloyd Cutler and Charles Schultze of Brookings. Although they all had different views on how to organize an effort like this, they were unanimous in believing such a program was worth undertaking. We have incorporated many of their suggestions. Finally, the issue was discussed at the EPB and there was general agreement that such an effort should be initiated.

Recommendation

That you submit legislation along the lines outlined above and announce your decision as soon as possible.

Tab B contains a draft statement which could be used to explain the need for a comprehensive program and indicate your personal interest and support.

Approve   H.R. 1  , *in principle but would like meeting with principal advisors for thorough discussion*

Disapprove \_\_\_\_\_

Other \_\_\_\_\_



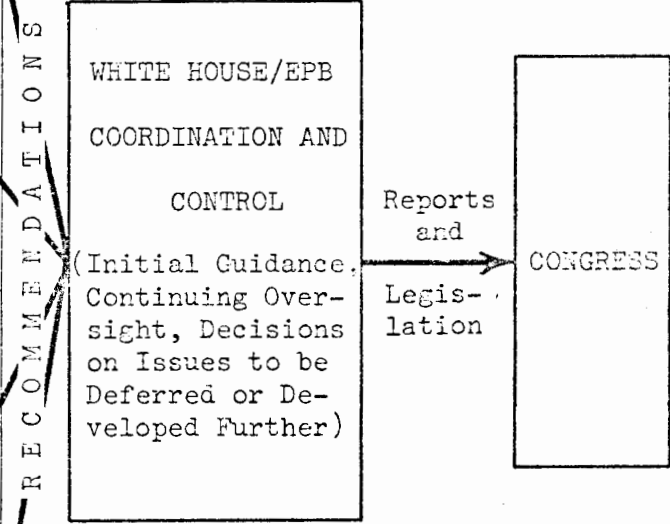
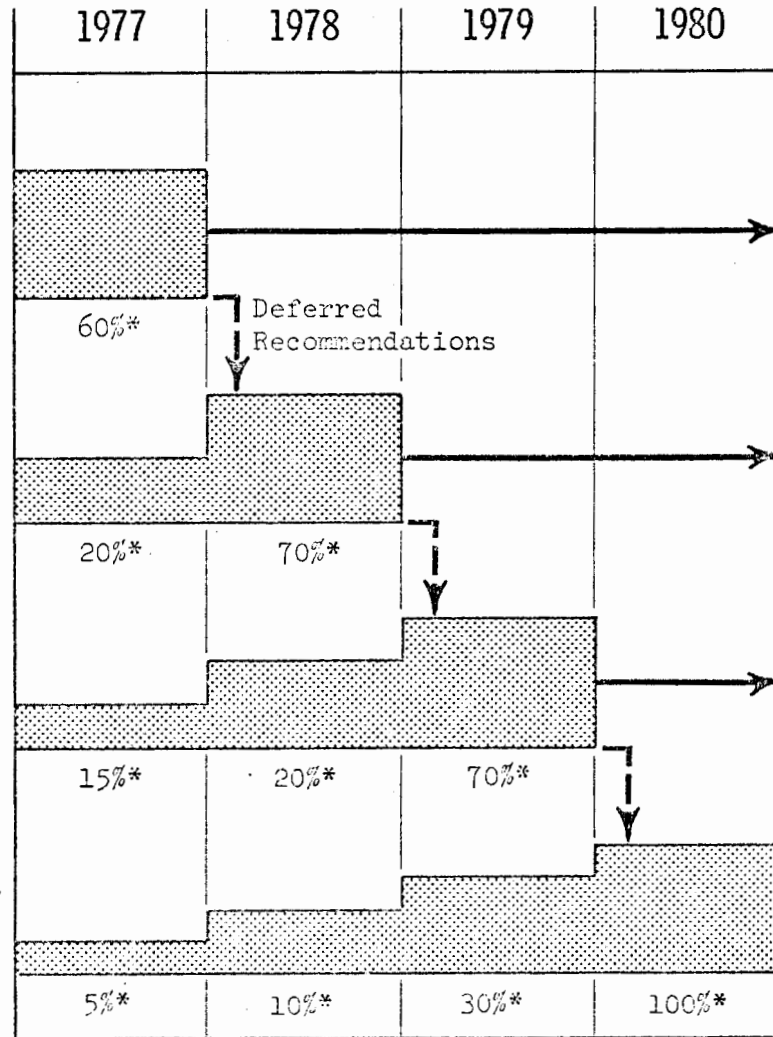
# TIMETABLE FOR COMPREHENSIVE REFORM PROGRAM

Sector 1: Transportation and Agriculture (Princ. Recs. e.g. ICC, CAB, USDA, DOT)

Sector 2: Heavy Mfg., Mining, Public Utils., (Princ. Recs. e.g. EPA, FEA, Interior.)

Sector 3: Light Mfg. and Construction (Princ. Recs. e.g. Labor, EEOC, FDA, CPSC)

Sector 4: Banking, Real Estate, Insurance, Trade, Communications, Services (Princ. Recs. e.g. SEC, FTC, FCC, Comptroller of the Currency)



\*Approximate Percentage of effort.

Timetable for Comprehensive Reform Program

Year	Principal Sectors of the Economy Investigated	Discussion
1	<u>Transportation and Agriculture</u> E.g., railroads, motor carriers, airlines, water carriers, pipelines, local and suburban transit systems, crop and livestock producers, and forestry.	Builds on the Administration's current work to evaluate and restructure the regulatory authorities of ICC, CAB, FMC. . Would include analysis of major transportation subsidies (e.g., airlines, rails, and merchant marine) and address problems of transportation safety (FAA, NHTSA, Coast Guard, etc.). Would also address major issues of farm policy, including agricultural quotas, price supports and other subsidies (e.g., CCC, ASCS) inspection and grading of products (e.g., APHIS). Work would begin on issues of employment standards and health/safety concerns, etc. but major recommendations on these would probably be deferred until later years.
2	<u>Mining, Heavy Manufacturing and Public Utilities</u> E.g., mining, oil and gas extraction, paper, chemicals, petroleum refining, primary metals, electric, gas, and other public utilities.	Year two would address the environmental and safety issues associated with all use of natural resources (e.g., MESA, EPA), and the major trade-offs associated with environmental and energy related objectives (e.g., FEA, EPA). The analysis would continue to build on employment safety data developed in year 1. It would also outline the government's energy policy beyond decontrol.
3	<u>Light Manufacturing and Construction</u> E.g., food processing, textiles, apparel, printing, and construction.	Year three would probably produce most major legislative recommendations dealing with employment (health, safety, compensation standards, etc.) and would address agencies such as OSHA, EEOC, Labor which tend to fall disproportionately on small businesses. Consumer protection issues (labeling, product safety, etc.) will also be considered as they are promoted by agencies such as CPSC, FDA, ATF.
4	<u>Finance, Insurance, Real Estate, Communications, Trade and Service Industries</u> E.g., banking, securities, insurance and other financial services, broadcast and communication services, wholesale and retail trade, legal services, etc.	Major issues addressed will most likely be competition between financial institutions (e.g., FHLBB, FDIC, Comptroller), regulation of broadcast and communications services (FCC), the trade practices and the adequacy of public disclosure (e.g., SEC, Federal Reserve, FTC) and the government's role in distribution and trade.



## Message to Congress

Some years ago President Eisenhower eloquently warned Americans of the potential dangers inherent in the growth of the industrial military complex. Today, I would warn of the dangers of the growth of a different system--the ever growing system of government regulations.

Starting even before 1776, the American way was to rely on individual initiative and freedom as a way of providing for our economic needs. Over the last several decades, however, we have departed from this trust in individual initiative and consumer choice. For good reasons and bad, we have expanded government's role and the scope and detail of governmental controls. We have created a governmental system which is more and more rigid and less able to respond to changing conditions. In an increasingly complex society, government's role should be to assist in the search for solutions to our problems. But in many cases government has become a part of the problem.

This growth of government accelerated in the Depression era. New government agencies were created to resolve numerous economic and social problems--to help reduce unemployment, to still unstable financial markets, and to protect failing businesses. Over time, we have turned to the Federal Government to bring us better housing, a national transportation system, better health care, and equal opportunities in the job market.

In our compassion to solve urgent human problems, we have given the Federal Government the power to regulate more and more of our economy and our way of life. At the time it seemed like an inexpensive, easy answer to some very complex problems.

Government programs and bureaucracies have grown geometrically to handle all of the Government's responsibilities. In the last 15 years, we have created 236 departments, agencies, bureaus, and commissions. Only 21 have been eliminated. It is no wonder that today we have more than 1000 different Federal programs, more than 80 regulatory agencies, more than 100,000 government workers whose primary responsibility is to regulate some aspect of our lives and tens of thousands of government regulations.

Every President since Harry Truman has tried to reform some aspect of the regulatory system. But in the past year, we have achieved the most significant and comprehensive



progress toward the reform of government regulation in three decades. We have moved toward a more open and vigorous free market with less paperwork and more opportunity for businessmen to run their own businesses.

We have reversed the trend of paperwork growth. We have reduced delays and we have instituted reforms to help small businessmen.

We have repealed the Federal fair trade laws which for 40 years were creating artificially high prices for consumers.

The Senate has passed the Financial Institutions Act which is the most sweeping reform of banking regulation in over 40 years.

We have increased civil and criminal penalties for anti-trust violations to ensure that competition can flourish.

We have opened up competition in the securities markets for the first time since the major stock exchanges were established almost 200 years ago.

We have lessened ICC regulation of the Railroads for the first time since the creation of the agency in 1887 and I have introduced the first major reform of airline and trucking regulation since the 1930's.

However, it is not enough to rest on our first successful efforts. There is much more that needs to be done. First we need to conduct a fundamental reexamination of how we achieve our regulatory goals. We need to find out more about the total impact of the maze of government regulations and subsidies. We need to see where there are contradictions and where there are overlaps. We need to know where outdated and unnecessary regulations should be eliminated. We need to know more about the impact of regulation on jobs, on prices, on innovation and on individual freedoms.

Only by undertaking a comprehensive, systematic program of our regulatory system will we know where our future efforts should be directed, what the best approach to change should be and how we can achieve concrete results.

Certainly we do not seek to change or abolish all regulations, only those that are obsolete, inefficient and benefiting special interests at the expense of the public interest. We do, however, need to know more about our entire regulation system.

The legislation I am submitting to the Congress today would establish a disciplined approach to the design of these policies. It would establish a comprehensive reform program to:

- make sure that government policies do not infringe on individual choice and initiative;
- reduce government intervention in the marketplace;
- find better ways to assure that scarce economic resources are used most efficiently so that we fulfill our desirable social goals at minimum costs;
- improve our ability to ensure that public expenditures benefit all Americans and that government policies are equitably enforced;
- make sure that the public interest rather than special interests benefit from government programs.

To achieve these goals, we need a systematic approach to understanding the problem, so that we can explain the facts to the American public, and assure timely action on the reforms that are necessary.

I have not been alone in recognizing that government interference has too many facets and affects too many people to permit a piecemeal approach to the problems. Congressmen and Senators of both parties have recently introduced legislation requiring major changes in the conventional practices of government agencies. Some bills would give Congress the authority to veto proposed regulations. Others call for the immediate or phased abolition of selected agencies. More comprehensive bills proposed that all agencies be subject to a zero-base authorization review in Congress on a periodic schedule, or that new offices be created within Congress to review specific agencies and/or regulations.

Finally, Senators Charles Percy and Robert Byrd have proposed legislation which would require a series of annual plans designed to amend the authorities of agencies responsible for controlling certain industries or achieving certain goals. The legislation I am submitting today is based on this same concept. Many members of Congress have already voiced their support for this kind of approach. We will be working together to achieve a legislative mandate for a systematic program to reform our regulatory system. I am confident this will enable us to realize our long term goal of greater economic prosperity in America's third century.

My legislation:

- focuses disciplined attention on major aspects of government activity that have been often neglected in the past;
- provides for a systematic, phased review and scrutiny of all government institutions, agencies, laws and administrative regulations that directly affect our economy with the aim of eliminating those that do not generate benefits to the public commensurate with their costs;
- provides a means for making a systematic assessment of the cumulative impact of government involvement on major sectors of the economy and for building the basis for informed choices on alternative ways of achieving our economic, social and environmental goals;
- emphasizes the role of Congress, the agencies, State and local governments, business and labor groups and the consumer in formulating proposals for reform and developing the support necessary for success.

The legislation requires the President over a period of four years to submit annual plans designed to eliminate or modify those Federal statutes and regulations which now add more in costs to America's consumers and taxpayers than they provide in benefits. These plans would provide affirmative steps for increasing competition and finding more effective methods of achieving important social and economic goals.

The annual plans would be referred to the appropriate oversight committees in the Congress, giving the Senate and the House of Representatives an opportunity to review and modify the plan. However, it requires that the Congress act on the proposals within ten months of their submission.

Let me stress that this comprehensive, phased program of reform must in no way delay reform efforts now underway. It is vital to our economic health as a Nation to achieve reform of the regulations governing our airlines, the motor carrier industry and financial institutions as soon as possible. This legislation is a compliment to, not a substitute for, the legislative proposals I have already sent to the Congress.

I believe that the reform of our regulatory system is one of the best investments that we can make in our future as a Nation. I believe we can make Government responsive to the American people and an instrument of economic progress without the endless growth of red tape and regulations.

Let us work together to revitalize our regulatory system in order to build a stronger, healthier, safer America to leave to our future generations.





EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
WASHINGTON, D.C. 20503

April 23, 1976

MEMORANDUM FOR: JIM CONNOR

FROM: DANIEL P. KEARNEY *DK*

SUBJECT: Edward Schmults Memorandum of 4/21/76  
re Comprehensive Regulatory Reform  
Legislation

OMB circulated the comprehensive regulatory reform legislation for comment. In general, the Agency's comments were supportive of the concept of this legislation (USDA, Treasury, ERDA, SBA, GSA, NASA and CEA). The Department of Transportation commented that it did not believe that the legislation would make any "significant advancement in the cause of regulatory reform" and asserted that the proposal might have the negative consequence of postponing action on pending specific regulatory reform proposals (e.g., the truck bill; the air bill).

OMB notes that the President and the Executive Branch can accomplish administratively the reforms suggested by the legislation. Therefore, OMB suggests that the advantages of the legislative approach be weighed against the risks of Congressional amendments and additions, especially given the unpredictability of Congress during this election year.

If the legislation is submitted, OMB suggests that the accompanying message be redrafted to emphasize the reformation of Congressional procedures so as to assure prompt consideration of the President's regulatory reform proposals and to indicate that the President intends to undertake a comprehensive regulatory reform program even if Congress does not enact this legislation.



THE WHITE HOUSE

WASHINGTON

April 23, 1976

MEMORANDUM FOR JAMES E. CONNOR

FROM: L. WILLIAM SEIDMAN *LWS*

SUBJECT: Comments on Edward Schmults' memorandum of April 21, 1976, regarding comprehensive regulatory reform legislation

I have reviewed Ed Schmults' memorandum on comprehensive regulatory reform legislation and am sympathetic with the need for undertaking a fundamental examination of the Federal regulatory system and approve of the basic thrust of the proposal.

The proposed comprehensive regulatory reform legislation is broader in scope than the Percy-Byrd approach in that it encompasses nontax subsidies as well as regulation. In approving extending the scope to nontax subsidies, we should be aware of the likelihood that this will create a good deal of uncertainty in the economy because industries or sectors of the economy will have thrown into question the entire system of subsidies from which they currently benefit.

Moreover, the time contemplated to complete these studies--3 to 4 years--is likely to prompt a reaction by those who want immediate relief from government regulations and feel that this appears to be simply another long, extended and expensive government study.